

## **TOWN OF FENWICK ISLAND PERSONNEL POLICIES**

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### **AMEND PERSONNEL POLICY MANUAL Council Resolution #53-2011**

Section 4 EMPLOYEE WORK PRACTICES AND CONDITIONS OF EMPLOYMENT shall be amended to include a subsection entitled "Return to Work Policy" (4-16) as follows:

#### **A. Policy**

It is the policy of The Town of Fenwick Island to provide an Early Return to Work Program with reasonable accommodation for employees who have been injured or ill. This policy is established to provide meaningful work while not aggravating the employee's condition or creating the risk of liability to The Town.

#### **B. Procedure**

The following procedure shall be enacted by each department head and amended from time to time with the consent of Council.

- 1) Each job description shall be amended to include the physical attributes necessary to perform the functions of that job. The job description shall, furthermore, describe any modified duty or the availability of an interdepartmental transfer for a temporary work assignment.
- 2) An employee returning to work from an injury or illness may be required to demonstrate the same physical attributes required as a condition of employment if a modified duty assignment is not available. This demonstration shall be before a licensed medical professional chosen by The Town of Fenwick Island at Town expense.
- 3) If, in the opinion of the licensed medical professional, the employee is not capable of performing his/her job, the department head and Town Manager shall counsel the employee with regard to options of Sick Leave and Extended Leave Without Pay.
- 4) An employee who is provided with a temporary work assignment shall have his/her fitness re-evaluated by a licensed health professional in thirty (30) days. During such time, the employee may not work outside of the modified duty job description.
- 5) The number of hours and days assigned to an employee on a modified duty assignment may differ from the employee's regular assignment. The employee's wage rate shall remain the same. An employee may schedule paid time off during the temporary modified duty assignment.
- 6) Continuation of a temporary assignment shall be at the discretion of the department head and Town Manager. An employee who does not perform duties as assigned may be subject to disciplinary action.

7) An employee under the care of a health professional, whether at work or on sick leave for greater than three (3) days, shall present his/her supervisor with an update on his/her condition no less than once per week during his/her illness or rehabilitation.

8) An employee who has returned to work but is under the care of a medical professional shall seek such services outside of normal Town business hours.

9) An employee who files a claim for Workers Compensation benefits gives up any physician-patient privilege with regard to any medical records directly or indirectly relating to treatment of the injury that was claimed to be work-related. The Town of Fenwick Island, therefore, has the right to make a written request for copies of all medical records including patient history, diagnosis of any illness, treatment/intervention prescribed or provided and the patient's response to treatment.

10) An employee returning to work from Workers Compensation must present his/her supervisor with a completed Workers Compensation Physician Report before any hours are assigned.

11) If the employee's injury does qualify as a disability under the Americans with Disabilities Act (ADA), The Town of Fenwick Island will take whatever steps are necessary to comply with the ADA and provide the employee with a reasonable accommodation that will allow him/her to perform the essential functions of his/her regular job. If no reasonable accommodation can be made, The Town of Fenwick Island will consider whether there are other positions within the Town, which are open, for which the employee is qualified and which meets the employee's restrictions.

If there are none, the employee will be placed on leave until one of the following occurs:

- a. The employee notifies the Town that his/her restrictions have changed to the extent that the restrictions can now be accommodated;
- b. The employee applies for a position which becomes open while he/she is on leave and for which he/she is qualified and said position meets his/her restrictions and the employee is selected for said position;
- c. The employee's leave exceeds the length of time provided by the current Town of Fenwick Island Leave of Absence Policy, provided that a longer period of absence may be considered in accordance with the Town's commitment to provide reasonable accommodation to person with disabilities.

### **C. Severability**

If any of the provisions of this article are found to be non-compliant with employment practices law, the remaining provisions shall remain in force.

**Attest:** \_\_\_\_\_  
*Agnes DiPietrantonio, Town Clerk*

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*Audrey Serio, President of Council*

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*Diane B. Tingle, Secretary of Council*

*I, Diane B. Tingle, Secretary of the Town Council, of the Town of Fenwick Island, Delaware, do hereby certify that the foregoing is a true and correct copy of the Resolution passed by the President and Council at a meeting on August 9, 2011, at which a quorum was present and voting throughout and the same is still in force and effect.*

\_\_\_\_\_  
*Date*

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*Diane B. Tingle, Council Secretary*